IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.31 of 2000

Decided on : March 13, 2007

State of H.P. **…..Appellant.**

VERSUS

Dharo and others **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Ashok Chaudhary, Additional Advocate General.

For the Respondents : Mr. Rakesh Jaswal, Advocate.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Respondents were sent up for trial for allegedly illicitly felling 2 Deodar trees from Demarcated Protected Forest and also for stealing the timber extracted from those trees. On conclusion of the trial, the learned Judicial Magistrate held that the case of the prosecution did not stand proved beyond reasonable doubt and consequently acquitted the respondents.

3. Prosecution case was that from 3.10.1992 to 6.10.1992, PW-3 Vidya Dhar, Forest Guard, inspected the forest, in question, and noticed 11 stumps of Deodar trees and 5 stumps of Fur trees and on inquiry he came to know that two trees had been felled by the respondents and the timber of those threes had been carried by them to their house. He lodged a report to this effect with the police. The Police

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Whether the reporters of the local papers may be allowed to see the Judgment?

registered a case and carried out search and recovered 50 scants of Deodar from a *Nallah.*

4. Prosecution alleged that the stumps noticed by the aforesaid Forest Guard indicated that the trees had been felled recently and the timber recovered also appeared to have been extracted from recently felled trees.

5. The evidence led by the prosecution contradicted its version that the stumps found on the spot were of the recently felled trees. PW-3 Vidya Dhar, Forest Guard, in his cross-examination stated that out of total 15 stumps, which he noticed, 3-4 stumps were of newly felled trees and the rest of the stumps suggested that the felling had taken place 10-12 years back. The timber that was recovered was of newly felled trees. The timber itself does not stand connected with the stumps that were noticed in the forest. Also, there is no evidence that the timber had been stacked in the *Nallah* by the respondents or that it belonged to them. Independent witnesses examined by the prosecution did not corroborate its version.

6. In view of the abovestated position, it cannot be said that the view taken by the learned trial Magistrate that the case is not proved beyond reasonable doubt is not supported by the evidence on record. Consequently, the appeal is dismissed.

March 13, 2007(sd) **(Surjit Singh), J.**